

Call to Order

Roll Call

<u>Adjourn</u>

#### **BOARD OF ADJUSTMENT AND APPEALS AGENDA**

Thursday, June 5, 2014 6:30 p.m. Coon Rapids City Center Council Chambers

	Adopt Agenda
	Approval of minutes from previous meetings
	Public Hearing
	Old Business
	New Business
1.	PC 14-15V, Ryan Healy, Front Yard Setback, 11894 Avocet Cir
	Other Business



**Board of Adjustment and Appeals - Regular Session** 

**Meeting Date:** 06/05/2014

**SUBJECT:** Approval of minutes from previous meetings

#### **Attachments**

August 2, 2012 work session minutes

February 6, 2014 minutes

## COON RAPIDS BOARD OF ADJUSTMENT AND APPEALS WORK SESSION MEETING MINUTES OF AUGUST 2, 2012

The work session meeting of the Coon Rapids Board of Adjustment and Appeals was called to order by Chairman Wessling at 8:45 p.m. on Thursday, August 2, 2012, in Conference Room 1 in City Hall.

Members Present: Chairman Gary Wessling, Commissioners Jeanette Rosand,

Teri Spano-Madden, Trish Thorup and Aaron Vande Linde

Members Absent: None.

Staff Present: Housing and Zoning Coordinator Cheryl Bennett and Assistant City Attorney

Doug Johnson

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#### CALL TO ORDER

Chairman Wessling called the work session meeting to order at 8:45 p.m.

#### 1. REVIEW PROCESS REGARDING CONTESTED HEARINGS

Assistant City Attorney Doug Johnson provided information on the procedures of conducting a contested hearing that would go before the Minnesota Court of Appeals. He noted that the Board is the first tribunal in this process. He stressed the importance of having a good record of the proceedings and suggested an outline for how the Board should conduct the hearing on a contested matter.

Mr. Johnson noted that staff would provide more formal documentation for the Board than usually presented. This documentation would include the Findings of Fact, Conclusions of Law in line with the Coon Rapids City Code and an Order. He provided an example to the Board consisting of an appeal of a decision of the Hearing Examiner.

Mr. Johnson stated it was his responsibility to make certain we are following the Court of Appeals process.

Commissioner Vande Lind requested a short outline of the process for use as a guideline for conducting the hearing. Mr. Johnson indicated he would provide the Board with same.

Commissioner Rosand asked whether participants would be affirming must they swear an oath in this process. Mr. Johnson stated the chair does not have to decide this beforehand. Commissioner Vande Lind suggested they simply affirm everyone.

#### 2. OTHER BUSINESS

None.

#### 3. ADJOURNMENT

Motion by Commissioner Vande Lind, Second by Commissioner Spano-Madden to adjourn the meeting.

Chairman Wessling adjourned the work session at 9:10 p.m.

Respectfully submitted,

Cheryl Bennett Housing and Zoning Coordinator

## COON RAPIDS BOARD OF ADJUSTMENT AND APPEALS MEETING MINUTES OF FEBRUARY 6, 2014 -- DRAFT

The regular meeting of the Coon Rapids Board of Adjustment and Appeals was called to order by Chairman Wessling at 6:30 p.m. on Thursday, February 6, 2014, in the Council Chambers.

Members Present: Chairman Gary Wessling, Commissioners Teri Spano-Madden, Trish

Thorup and Aaron Vande Linde

Members Absent: None

Staff Present: Housing and Zoning Coordinator Cheryl Bennett, Assistant City Attorney

Melissa Westervelt and Neighborhood Coordinator Kristin DeGrande

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#### CALL TO ORDER

Chairman Wessling called the meeting to order at 6:30 p.m.

#### APPROVAL OF THE FEBRUARY 6, 2014, AGENDA

The agenda was approved as published.

#### APPROVAL OF THE SEPTEMBER 5, 2013, MEETING MINUTES

MOTION BY COMMISSIONER SPANO-MADDEN, SECOND BY COMMISSIONER THORUP, TO APPROVE THE SEPTEMBER 5, 2013, MEETING MINUTES AS PRESENTED. THE MOTION PASSED UNANIMOUSLY.

#### **NEW BUSINESS**

1. CASE 14-01V – DOUGLAS AND VICKIE TIERNEY – 11300 PALM STREET – SPECIAL ASSESSMENT OBJECTION

Neighborhood Coordinator Kristin DeGrande reviewed the background on the case. She stated the amount of \$600 was for a Vacant Property Monitoring fee. She noted this fee is charged to any property that has been vacant for at least 120 days and has required three or more visits from City staff responding to issues at the property.

Ms. DeGrande indicated that on June 10, 2013, the Coon Rapids Police Department was at the property investigating possible suspicious activity when they noted four people living in the home with a tampered electric meter but no gas or electric service. She stated on June 11, 2013, a representative from the Fire Department, the Chief Building Official, and an inspector from the Neighborhood Reinvestment Division inspected the home and posted it as unsafe for human habitation because of the tampered meter and lack of utilities. The water was ordered shut off and Public Works Department personnel went out later that same day to do so. A code enforcement officer also performed an inspection and issued citations that same day for violations including expired tabs; flat tires on a vehicle; exterior storage of items including building materials, tires, and miscellaneous items and the illegal placement of a storage container in the backyard. She stated in July 2013 a City inspector visited the property to investigate long grass and issued a citation for grass taller than 8 inches.

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Chairman Wessling opened the public hearing at 6:35 p.m.

Douglas Tierney, property owner, stated the police had been to his home many times. He stated his son lived in the house and he had not been able to get his son out of the house because of the eviction laws of the state. He indicated he had fixed the windows, the shed, and other items. He stated he was 71 years old with two kids still in high school, one whom is disabled. He indicated that he wanted to move back into his home. He stated he had lived in the house 20 years and only recently found out the electrical service box was not signed. When he hired an electrician, he was informed he needed a master electrician, which he could not afford. He stated he did not want to leave his house vacant and has tried to do everything asked of him by city officials.

Chairman Wessling asked if his son was out of the house now. Mr. Tierney responded his son was out of the house and was not allowed back in. He noted he had the only key and not even his wife could get into the house. He stated the house was not vacant as he had a security system installed that he can monitor from his phone. He stated he visited the property on a regular basis.

Chairman Wessling asked if the snow was being plowed. Mr. Tierney responded he had a four wheel drive vehicle so he could just drive over the snow and that the sidewalk was plowed by the City.

Chairman Wessling asked if he received the citations when they were originally issued. Mr. Tierney responded that the first communication he received was from someone who wanted him to open a safe in the garage. He stated he went to the property and opened the safe. He stated the first thing he noted missing was his gun powder scale, which was found in the house and with traces of meth on it. He also gave the Police Department access to the shed on the property. He asked why the City had not tagged both doors on the house. He stated only his front door was tagged and he never went into his front door so he did not see the tag.

Chairman Wessling asked what the red tag was for. Mr. Tierney responded his son took the light meter off and tampered with it. He indicated his son was also using meth. He stated he had not seen the light meter and did not know it had been tampered with.

Chairman Wessling stated while he had problems with this property, so did the City. He stated the City had a lot more than \$600 invested in staff time.

Mr. Tierney stated he had done his best to get his son out of the home, but state laws made it difficult. He noted he had cooperated with the City and the Police Department and went out of his way to be helpful.

Chairman Wessling asked Mr. Tierney if he now had total control of the house and if his son gone from the property. Mr. Tierney responded he had total control at this time and that his son could no longer get into the house.

As no one further wished to speak, Chairman Wessling closed the public hearing at 6:47 p.m.

Chairman Wessling stated this was a shame that Mr. Tierney was trying to help his son and this happened. He stated he could not in clear conscious assess the \$600. Commissioner Thorup agreed.

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Mr. Tierney noted under state statute he qualified for hardship due to his age. Ms. DeGrande responded that hardship clause was for a deferment.

Commissioner Spano-Madden stated the City followed the rules and the City had a lot of money invested in the property. She stated she was not in favor of abandoning it.

Commissioner Vande Linde stated he was in favor of the full amount.

Chairman Wessling asked if there would be agreement to a 50 percent reduction. Commissioner Vande Linde replied he could go along with a \$300 assessment.

MOTION BY COMMISSIONER VANDE LINDE, SECOND BY COMMISSIONER THORUP, IN CASE 14-01V, TO RECOMMEND THE CITY COUNCIL MODIFY STAFF RECOMMENDATION AND LOWER THE SPECIAL ASSESSMENT AMOUNT TO \$300.

#### THE MOTION PASSED UNANIMOUSLY.

Following discussion, it was the consensus of the Board to hear objections first from those in attendance and return to the scheduled order when completed.

# 2. CASE 14-04V – PATRICIA A. WOODARD – 10824 COTTONWOOD STREET – SPECIAL ASSESSMENT OBJECTION (AGENDA ITEM 4)

Neighborhood Coordinator Kristin DeGrande reviewed the background on the case. She stated the amount of \$1,500 was for three administrative citations of \$300, \$600, and \$600 for an inoperable vehicle without current license tabs. She stated a City inspector went out to this rental property on October 1, 2013, to investigate an inoperable vehicle with a flat tire and missing license tabs. An administrative citation was sent to the owner of record on October 2, 2013, with a compliance date of October 9, 2013. Upon re-inspection on October 14, 2013, there had been no change so the \$300 citation was charged to the property. She stated a second citation with a \$600 penalty was sent to the property on October 15, 2013, with a compliance deadline of October 22, 2013. Upon re-inspection on October 28, 2013, there still had been no change so this \$600 citation was charged to the property. She noted the property was still in violation and a third citation with a \$1,200 penalty was sent on October 29, 2013, with a compliance date of November 5, 2013. She stated the tenant of the property called city hall on November 5, 2013, to request a time extension and a new compliance date of November 19, 2013, was established. Upon re-inspection on December 5, 2013, the property was in compliance so only one half of the \$1,200 citation, or \$600, was charged to the property.

Chairman Wessling opened the public hearing at 6:54 p.m.

Patricia Woodard stated that in her letter she mentioned they had a broken water heater that flooded her basement. She stated everything was being brought out of the home and they were going to rent a dumpster but that at the same time this occurred, she had a family member who was in hospice and she dropped everything to spend time with her dying family member. She stated that she was a single person, now unemployed, and that her home was being threatened with foreclosure. She stated she could not afford the \$3,000. She indicated she had called the person listed on the letter about the assessment, but that she never received a call back. She

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stated she had foster kids in her home and they were not good about getting the mail and giving it to her.

Chair Wessling asked at what point did she know about the citations and the things that needed to get done. Ms. Woodard responded it was the third notice and that they cleaned everything up that weekend of November 8. She stated the car belonged to one of her foster sons and she was not aware that it had expired registration. She stated she asked her foster son to remove the car.

Chair Wessling asked if the car was removed and everything cleaned up. Ms. Woodard responded everything was cleaned up and the car was removed. She stated she did not intend on leaving everything out that long, but when she found out about a family member being in hospice, she dropped everything and left to attend to her family.

As no one further wished to speak, Chairman Wessling closed the public hearing at 6:59 p.m.

Chair Wessling stated this was a difficult situation again and he did not think they should charge \$3,000 with the property owner being out of town when the notices were sent and the property owner not finding out about the situation until the third notice had been sent.

MOTION BY COMMISSIONER VAN DELINDE, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 14-04V, TO RECOMMEND THE CITY COUNCIL RESCIND STAFF RECOMMENDATION IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

3. CASE 14-13V – JILL LARSEN – 11231 WREN STREET – SPECIAL ASSESSMENT OBJECTION (AGENDA ITEM 13)

Neighborhood Coordinator Kristin DeGrande reviewed the background on the case. She noted the amount of \$900 was for two administrative citations for a vehicle without current license tabs. She stated a City inspector went out to this property on July 22, 2013, to investigate a vehicle without current license tabs. An administrative citation was sent to the owner of record on July 23, 2013. Upon re-inspection on August 8, 2013, there had been no change so the \$300 citation was charged to the property. She stated being the property was still not in compliance, a second citation was sent to the property on August 8, 2013. Upon re-inspection on August 23, 2013, there still had been no change so the \$600 citation was charged to the property. The property remained in violation on August 23, 2013, and a third citation with a \$1,200 penalty was sent. She stated that upon re-inspection on September 4, 2013, the property was in compliance. She noted that one half of the penalty on the third citation could have been charged to the property but it had been administratively overlooked.

Chairman Wessling opened the public hearing at 7:08 p.m.

Jill Larsen, 11231 Wren Street NW, stated the only citation she received was one in August about the license tabs on her truck. She stated she had not seen the first two citations described. Ms. Larsen noted she had a roommate at the time that she later had removed from her home, so she did not know if he did something with the earlier citations. She stated the roommate was removed from her home the first week in August. She stated because of her roommate, she had

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many police calls to her home but that prior to that time she had never had a police call in the 19 years she had lived in her home. She stated that she was home at the time when the pictures included in the report were taken, stating that she was home due to a worker's compensation injury and that she was home if her truck, shown in the photos, was present. She asked why the City did not have a staff person knock on her door and talk to her if they were there taking pictures anyway. She stated she believed the letters should have been sent by Certified Mail to ensure people received them. She inquired about the abatement fees. Ms. DeGrande responded abatement fees included items that the City paid for such as grass mowing or snow removal.

Ms. Larsen stated that once she received the letter – the third one – she took care of the tags on her truck immediately.

Commissioner Spano-Madden noted any time an inoperable vehicle was on a property, it was subject to being cited.

Ms. Larsen stated the last few weeks she has had problems with mail delivery and not receiving her mail except for piles of it delivered a couple of times a week.

As no one further wished to speak, Chairman Wessling closed the public hearing at 7:15 p.m.

Commissioner Spano-Madden stated maybe the City needed to look at how people received the notices to ensure they were being received in a timely manner.

MOTION BY COMMISSIONER SPANO-MADDEN, SECOND BY COMMISSIONER THORUP, IN CASE 14-13V, TO RECOMMEND THE CITY COUNCIL MODIFY STAFF RECOMMENDATION AND LOWER THE SPECIAL ASSESSMENT AMOUNT TO \$300.

THE MOTION PASSED UNANIMOUSLY.

4. CASE 14-07V – CREEKSIDE ESTATES/SHANNON MORRIS AND THOMAS F. DEVINCKE – 10475 XEON STREET – SPECIAL ASSESSMENT OBJECTION (AGENDA ITEM 7)

Neighborhood Coordinator Kristin DeGrande reviewed the background on the case. She stated the amount of \$300 was for an administrative citation for exterior storage. She stated that in May 2013, City staff held a meeting with the owners and park manager of Creekside Estates before a multi-department compliance sweep by the City began in the Creekside community. She indicated inspections began on June 17, 2013. She noted that on August 14, 2013, City inspectors visited the vacant lot at 10475 Xeon Street NW and found exterior storage in violation of City code. The items identified included fallen tree debris and branches and what appeared to be a bucket buried in the ground. An administrative citation was issued on August 19, 2013, and copies sent to the property owner and park manager. The compliance date was set for August 26, 2013. Upon re-inspection on October 3, 2013, the tree branch had been removed, but the bucket remained so the \$300 citation fee was charged.

Ms. DeGrande stated a second citation was issued on October 4, 2013, with a compliance date of October 11, 2013. A 30-day time extension request was submitted on October 7, 2013; an agreement was signed and the compliance date was extended until November 11, 2013. The re-

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inspection took place on November 19, 2013, and the property was found to be in compliance. Because this was the second citation issued for the same violation, half of the \$600 citation penalty was charged in addition to the first citation penalty of \$300. She noted, however, that it was not eligible for appeal because of the agreement signed.

Chairman Wessling opened the public hearing at 7:22 p.m.

Ms. Shannon Morris, Creekside Estates, stated in this case and in cases 8, 10, and 11 they had not received the first notices. She stated that because of this they did not have the chance to send the notices to their attorney to file the 30 day extension requests in these cases, which they had filed in other cases. She stated their attorney suggested filing one blanket extension to cover all of the citations but the City would not allow it.

Commissioner Vande Linde stated their attorney made no mention of not receiving the first notices in his letter of January 21, 2014.

Commissioner Spano-Madden asked why they needed extensions. Ms. Morris responded some of the violations they needed to remedy and some needed to be remedied by the homeowners. She stated they received many citations and they wanted extensions on all of them to provide time to go through all of the citations and determine what needed to be done.

Chair Wessling asked if everything was in compliance now. Ms. Morris responded that was correct.

Commissioner Vande Linde noted this was a joint effort with the City and he believed someone – the park manager, a property owner or lessee – would have been there for the inspections. Ms. Morris responded no one from the company was with the inspector.

Ms. DeGrande stated the park manager at the time was not very responsive so it would not have been unusual if the park manager was not part of the inspections. She stated that is the last case, 14-12V, staff has the assessment be removed.

Commissioner Spano-Madden commented Ms. Morris appeared to be very organized. Ms. Morris responded it was necessary because of the number of citations issued and the extensions filed.

Chair Wessling stated with three people generally getting notified, someone should have done something. Ms. Morris noted some of properties involved were vacant lots, so those notices did not go to any resident.

Chair Wessling stated he could understand one citation getting lost or misplaced, but he could not understand two citations getting lost or misplaced. Ms. Morris stated the citations were issued at different times so it was not just one large packet that was delivered.

Housing and Zoning Coordinator Cheryl Bennett stated the citations were mailed through a mailing service and not from City Hall through the postal service. Commissioner Spano-Madden asked how an audit occurs with using mailing service. Ms. DeGrande responded the mailing service company is a company that also works with other cities. She noted Code Enforcement

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mail was being pulled out of this service starting during the third week of August and mailed separately because of delays reported in mail sent out through that mail service. She indicated, however, that in June, July, and the first two weeks of August, mail was sent through the mailing service.

Commissioner Spano-Madden expressed her concerned as the issue of not receiving notices appears to be a recurring issue with property owners appearing before them in these appeals.

Commissioner Thorup asked if residents owned their buildings and rented the lots. Ms. Morris responded that was correct.

Commissioner Thorup asked if the park manager could force people to keep everything fixed. Ms. Morris responded that because residents owned their own homes, the park manager could not fix up their individual houses.

Chairman Wessling inquired about the bucket violation.

Mr. Paul Swartz, Creekside Estates park manager, stated the bucket was actually a protective bucket surround for the water supply riser. He stated the violation was on a vacant lot and once they received the violation notice, the situation was corrected, noting it was corrected in November.

Chair Wessling asked if all of the vacant lots had these buckets on them. Mr. Swartz responded he began working at Creekside in October and stated that as far as he knew most of the vacant lots have these buckets on them.

Ms. DeGrande noted that in the citation it stated it was a tripping hazard that needed to be covered.

As no one further wished to speak, Chairman Wessling closed the public hearing at 7:43 p.m.

MOTION BY COMMISSIONER VANDE LINDE, SECOND BY COMMISSIONER THORUP, IN CASE 14-07V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$300 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED (3-1 COMMISSIONER SPANO-MADDEN OPPOSED).

5. CASE 14-08V – CREEKSIDE ESTATES/SHANNON MORRIS AND THOMAS F. DEVINCKE – 10255 XEON STREET – SPECIAL ASSESSMENT OBJECTION (AGENDA ITEM 8)

Neighborhood Coordinator Kristin DeGrande reviewed the background on the case. She stated the amount of \$300 was for an administrative citation concerning a secondary egress required for the home. She stated that on June 25, 2013, City inspectors visited 10255 Xeon Street NW and found several City code violations, including a non-operational secondary egress. An administrative citation was issued on June 28, 2013, and sent to the property owner, park manager and resident. The compliance date was set for July 5, 2013. Upon re-inspection on August 30, 2013, compliance had been met for some of the violations listed, but that the

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secondary egress was still non-operational so the \$300 citation penalty was charged. Additionally, a new violation for exterior storage was identified. She noted the property was still not in compliance and a second citation was issued on September 5, 2013, for the non-operational egress. A separate \$300 citation was issued that same day for the new exterior storage violation. Upon re-inspection on October 23, 2013, the property was found to be in compliance and no further fines were assessed.

Chairman Wessling opened the public hearing at 7:47 p.m.

Ms. Shannon Morris, Creekside Estates, noted this was a homeowner issue and they could not go onto the property.

Chair Wessling asked if the property owner got assessed with the assessment. Ms. DeGrande responded that was correct.

Ms. Morris stated if they could go onto the property and fix it, they would. But the only recourse they have is to evict the homeowner. She stated the property is now in compliance.

Commissioner Vande Linde stated if the recourse was the power of eviction and the property owner did not follow through with that threat, he has a problem with not assessing this.

Commissioner Spano-Madden stated she was impressed with how the park owner is working with the City on these matters and that they had accomplished a lot, but she would go along with the assessment.

As no one further wished to speak, Chairman Wessling closed the public hearing at 7:51 p.m.

MOTION BY COMMISSIONER THORP, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 14-08V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$300 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

6. CASE 14-09V – CREEKSIDE ESTATES/SHANNON MORRIS AND THOMAS F. DEVINCKE – 10460 VALE STREET – SPECIAL ASSESSMENT OBJECTION (AGENDA ITEM 9)

Neighborhood Coordinator DeGrande reviewed the background on the case. She stated the amount of \$258 was a fee for securing a vacant property. She stated that on September 26, 2013, the unit at 10460 Vale Street NW was posted as uninhabitable due to no electricity. On October 3, 2013, the park manager contacted the City to report a broken window at this vacant unit and that he would board the window later that day. On October 23, 2013, City inspectors noticed the vacant, uninhabitable unit was open and, as a matter of City policy, a police officer swept the unit to make sure no one was inside. During that inspection, a cat was found and given to a neighbor, excessive interior storage was identified and a toilet was found to be overflowing. The Fire Department immediately disconnected the gas service, the park manager shut off the water to the unit and the City's contractor secured the front door with a hasp lock. Given the findings

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of the interior conditions, correction orders were then sent to the Creekside Estates owners, the park manager and the resident.

Commissioner Vande Linde noted the cost to secure the property was \$190 and the fee charged was \$290. He asked what the difference was for. Ms. DeGrande responded this was an administrative fee for the assessment.

Chairman Wessling opened the public hearing at 7:54 p.m.

Ms. Shannon Morris, Creekside Estates, stated they had an issue like this previously and they had requested a phone call be made to the park manager who would take care of securing the property. She stated it concerned her that this arrangement had not been followed.

Ms. DeGrande stated it was the park manager who informed the City that the window was broken and would be fixed and when the City went back to the unit it was unsecured. She stated it was the policy of the City to immediately secure the property and if they could not lock up the property, they would secure it in another method.

Chair Wessling stated he understood the policy if it was a home on the street, but there was a lot of activity in this area and there was a manager on the property. He recommended in the future the park manager be given the opportunity to secure a property.

Commissioner Vande Linde asked why the park manager could go onto and fix this property.

Mr. Paul Swartz, Creekside Estates park manager, stated this home was red tagged and vacant so he went onto the property and fixed the window. He stated he had permission from the City to fix the window. He noted when he contacted the City again about a cat in the house, the City came out and put a lock on the door. He stated if he would have been given permission by the City at the time of the second call, he would have gone into the home, got the cat out and put a lock on the door himself. He disagreed with this assessment as he would have been able to secure the property with less cost.

Chair Wessling agreed. He indicated with a park manager on site, they should be given the chance to secure the property before the police were called. Ms. DeGrande responded that was the direction given to her by the Police Department, but that she could talk to them about it.

Commissioner Spano-Madden stated she understood rules needed to be followed but did not understand why the park manager would not have been contacted when the City and the park were working together on this.

As no one further wished to speak, Chairman Wessling closed the public hearing at 8:01 p.m.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER VANDE LINDE, IN CASE 14-09V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$258 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED (3-1 COMMISSIONER SPANO-MADDEN OPPOSED).

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7. CASE 14-10V – CREEKSIDE ESTATES/SHANNON MORRIS AND THOMAS F. DEVINCKE – 10253 YELLOW PINE STREET – SPECIAL ASSESSMENT OBJECTION (AGENDA ITEM 10)

Neighborhood Coordinator Kristin DeGrande reviewed the background on the case. She stated the amount of \$300 was for an administrative citation for exterior storage. She indicated that on July 16, 2013, City inspectors visited the vacant lot at 10253 Yellow Pine Street NW and found exterior storage in violation of City code. The items identified included structure tie downs, electrical wires and an uncapped gas meter. An administrative citation was issued on July 18, 2013, to remove the tie downs and electrical wires and to cap the gas meter. The citation was sent to the property owner, park manager and resident. Upon re-inspection on September 6, 2013, the electrical wires had been removed but the tie downs were still on site and the gas meter was not capped, so the \$300 citation fee was charged. She stated a second citation was issued on September 10, 2013. The re-inspection took place on November 1, 2013, and the property was found to be compliant. No further fines were assessed despite this being a second citation for the same violation where half of the \$600 citation amount should have been charged for the exterior storage violation.

Chairman Wessling opened the public hearing at 8:04 p.m.

Ms. Shannon Morris, Creekside Estates, stated this was also a case where they did not receive the first notice.

Mr. Paul Swartz, Creekside Estates park manager, explained the copper tubing coming out the PVC pipe. He noted that when the home was removed from the lot, the gas company disconnected the gas line from the meter.

Chair Wessling asked if this was normal to leave the tube. Mr. Swartz responded he would not do it that way and he did not know who removed the home. He noted the other wires looked like they were telephone wires, belonging to that utility and not the property of the park.

Commissioner Vande Linde asked if the tie downs staff referred to were trailer tie downs. Ms. DeGrande responded they were trailer tie downs.

Chair Wessling asked if the tie down was permanently installed. Mr. Swartz responded it was code that all trailers were tied down and the ties should be removed by the movers when the home was removed. He noted the tie down was removed after the second notice was received. He stated if there was a home going in right away, those ties would not be removed as it was expensive to have them replaced.

Commissioner Spano-Madden stated her issue was if they were not receiving the notices. Chair Wessling noted there were other things that should have been charged that were not charged.

As no one further wished to speak, Chairman Wessling closed the public hearing at 8:13 p.m.

Commissioner Vande Linde noted this appeared to be a utility issue.

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Commissioner Thorup asked if the homeowners leased the land that the home sat on and what type of notice was required when they wanted to remove their home. Ms. Morris responded homeowners are asked to give a 30-day notice, but she did now know how much notice these homeowners gave.

Commissioner Vande Linde asked how long the property has been vacant. Ms. Morris responded it has been vacant since at least 2009 when she started tracking this in a data base.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 14-10V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$300 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

8. CASE 14-11V – CREEKSIDE ESTATES/SHANNON MORRIS AND THOMAS F. DEVINCKE – 10312 WINTERGREEN STREET – SPECIAL ASSESSMENT OBJECTION (AGENDA ITEM 11)

Neighborhood Coordinator Kristin DeGrande reviewed the background on the case, indicating that the circumstances were identical to those in Case 14-10V.

Chairman Wessling opened the public hearing at 8:18 p.m.

Ms. Shannon Morris, Creekside Estates, stated they had not received the first notice.

Commissioner Vande Linde asked how long this property had been vacant. Ms. Morris responded at least four years.

Chair Wessling stated this was another situation where the property was vacant for a long period of time and should have been cleaned up.

As no one further wished to speak, Chairman Wessling closed the public hearing at 8:19 p.m.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 14-11V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$300 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

9. CASE 14-12V – CREEKSIDE ESTATES/SHANNON MORRIS AND THOMAS F. DEVINCKE – 10312 WINTERGREEN STREET – SPECIAL ASSESSMENT OBJECTION (AGENDA ITEM 12)

MOTION BY COMMISSIONER VANDE LINDE, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 14-12V, TO RECOMMEND THE CITY COUNCIL RESCIND STAFF RECOMMENDATION IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

Board of Adjustment and Appeals Meeting Minutes February 6, 2014 Page 12 **DRAFT** 

Chair Wessling recessed the meeting at 8:22 p.m. and reconvened the meeting at 8:30 p.m.

10. CASE 14-02V – JENIFER TURNER – 9951 PALM STREET – SPECIAL ASSESSMENT OBJECTION (AGENDA ITEM 2)

Neighborhood Coordinator Kristin DeGrande reviewed the background on the case. She stated the amount of \$300 was for an administrative citation for long grass. She indicated a City inspector went out to this property on August 21, 2013, to investigate grass and weeds between 8 and 48 inches tall in the side yard. The property was posted with a long grass citation and a courtesy letter was sent to the owner of record. The compliance date was set for August 28, 2013. Upon re-inspection on August 29, the grass and weeds had not been cut so the \$300 was charged. The City's mowing crew went out to the property on September 3, 2013, and found the grass and weeds cut upon arrival. This was the second long grass citation issued to this property in 2013.

Chairman Wessling opened the public hearing at 8:32 p.m.

As no one further wished to speak, Chairman Wessling closed the public hearing at 8:33 p.m.

MOTION BY COMMISSIONER VANDE LINDE, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 14-02V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE SPECIAL ASSESSMENT OF \$300 IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

11. CASE 14-03V – LANCELOT PROPERTY LLC/JOHN STILES – 3054 116<sup>TH</sup> AVENUE NW – SPECIAL ASSESSMENT OBJECTION (AGENDA ITEM 3)

Assistant City Attorney Westervelt stated that upon further review of this matter, Legal Department staff is requesting the Board take action to recommend the City Council rescind this special assessment in its entirety due to the property owner not receiving proper notice.

MOTION BY COMMISSIONER THORUP, IN CASE 14-03V, TO RECOMMEND THE CITY COUNCIL RESCIND STAFF RECOMMENDATION IN ITS ENTIRETY.

Attorney Westervelt noted the motion should state the reason for the removal of the recommended assessment. She indicated the Commissioners could either affirm or not affirm staff recommendation or they could amend the staff recommendation. It was noted that no second had been made to the motion.

MOTION FAILED FOR LACK OF A SECOND.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER VANDE LINDE, IN CASE 14-03V, TO RECOMMEND THE CITY COUNCIL RESCIND STAFF RECOMMENDATION IN ITS ENTIRETY DUE TO IMPROPER NOTICE.

THE MOTION PASSED UNANIMOUSLY.

Board of Adjustment and Appeals Meeting Minutes February 6, 2014 Page 13 **DRAFT** 

# 12. CASE 14-05V – SARAH AND MICHOMA MOENGA – 2841 113<sup>TH</sup> LANE NW – SPECIAL ASSESSMENT OBJECTION (AGENDA ITEM 5)

Neighborhood Coordinator Kristin DeGrande reviewed the background on the case. She stated the amount of \$600 was for two administrative citations for not having garbage service at a residential property. She noted that during a long grass inspection in August 2013, a City inspector noted bags of garbage in the backyard of this rental property. On October 1, 2013, a City inspector went out to the property and suspected the tenants were still without service, so an e-mail was sent to every approved hauler in Coon Rapids asking for verification of service. Each of the haulers responded they did not have a contract to provide service at this property, so an administrative citation was sent to the rental property owner on October 2, 2013, with a compliance date of October 9, 2013. She stated that on October 17, 2013, a City inspector contacted each of the haulers and found there was still no contract for garbage service at this property so a second administrative citation was sent to the rental property owner on October 18, 2013, with a compliance date of October 28, 2013. The City inspector confirmed the tenants had obtained garbage service for this property on October 31, 2013, so only one half of the \$600 citation amount was charged.

Chairman Wessling opened the public hearing at 8:44 p.m.

Commissioner Vande Linde asked if this property was a rental. Ms. DeGrande responded that it is an unlicensed rental property and staff is working with the property owners on that issue.

As no one further wished to speak, Chairman Wessling closed the public hearing at 8:46 p.m.

MOTION BY COMMISSIONER SPANO-MADDEN, SECOND BY COMMISSIONER VANDE LINDE, IN CASE 14-05V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$600 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

13. CASE 14-06V – SARAH AND MICHOMA MOENGA – 11845 JONQUIL STREET – SPECIAL ASSESSMENT OBJECTION (AGENDA ITEM 6)

Neighborhood Coordinator Kristin DeGrande reviewed the background on the case. She stated the amount of \$150 was a penalty for receiving two or more long grass citations within the same growing season. She stated a City inspector went out to this rental property on June 12, 2013, to investigate long grass and weeds between 8 and 16 inches tall. The property was posted with a long grass citation and a courtesy letter was sent to the owner of record with a compliance date of June 19, 2013. Upon re-inspection on June 20, 2013, the grass had been mowed and the property was in compliance. The \$300 citation was not charged.

Ms. DeGrande indicated a City inspector went back out to this rental property on August 2, 2103, to investigate long grass and weeds up to 30 inches tall, which were verified. The property was posted with a citation for long grass and a courtesy letter was sent to the owner of record with a compliance date of August 9, 2013. Upon re-inspection on August 12, 2013, the grass had been mowed and the property found in compliance. The \$150 penalty was charged as a result of having two long grass citations issued within the same season.

Board of Adjustment and Appeals Meeting Minutes February 6, 2014 Page 14 **DRAFT** 

Chairman Wessling opened the public hearing at 8:49 p.m.

As no one further wished to speak, Chairman Wessling closed the public hearing at 8:50 p.m.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER SPANO-MADDEN, IN CASE 14-06V, TO RECOMMEND THE CITY COUNCIL AFFIRM THE \$150 SPECIAL ASSESSMENT IN ITS ENTIRETY.

THE MOTION PASSED UNANIMOUSLY.

14. CASE 14-14V – KYLE NORDLUND – 2125 131<sup>ST</sup> LANE NW – SPECIAL ASSESSMENT OBJECTION (AGENDA ITEM 14)

Neighborhood Coordinator Kristin DeGrande reviewed the background on the case. She stated the amount of \$2,100 was for three administrative citations for exterior storage. She indicated a City inspector went out to the property to investigate possible code violations on August 30, 2013. An administrative citation was issued for exterior storage and sent to the property owner at the same address later that day. Upon re-inspection on September 11, 2013, there had been no change so the \$300 citation was charged to the property. She stated a second citation was sent to the property owner on September 12, 2013. On September 20, 2013, an unidentified person left a voice mail for the inspector stating that items would be cleaned up by September 24, 2013, so the re-inspection date was delayed by staff. Upon re-inspection on September 25, 2013, there had been no change and the \$600 citation was charged to the property. A third citation was sent to the property owner on September 25, 2013. Upon re-inspection on October 9, 2013, there appeared to have been progress made, but all of the items had not been removed and, therefore, the property was not in compliance and the \$1,200 citation was charged to the property. She noted a fourth citation was sent to the property owner on October 10, 2013. The property owner submitted an appeal to the citation on October 21, 2013, but it was submitted late and not processed. Upon re-inspection on November 4, 2013, the property was found to be in compliance. Penalties associated with the fourth citation were not charged to the property.

Chairman Wessling noted this was a situation where Mr. Nordlund, who was a veteran had a friend look after his home when he was out of town on military duty and upon Mr. Nordlund's return, the home was destroyed. He recommended completely rescinding staff recommendation in this matter and stated further discussion was not necessary.

Assistant City Attorney Westervelt recommended discussion on this matter.

Commissioner Vande Linde agreed with Chairman Wessling, but wished Mr. Nordlund would have been at the meeting tonight.

Commissioner Spano-Madden asked how this was different than other situations where another person was looking after someone's home and the same situation occurred. Commissioner Vande Linde stated when someone was on active duty, they are allowed additional time to respond to certain matters but that he did not know if that pertained in this situation.

Chairman Wessling stated he understood the property was now in compliance. Ms. DeGrande responded the property was in compliance.

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Attorney Westervelt stated the Board needed to consider whether the City followed the established procedures and if the property owner had or should have had knowledge about the pending assessment which, in this case, might be the issue.

Chairman Wessling believed the City followed the procedures, but he believed Mr. Nordlund had not received the notice nor had knowledge about the pending assessment due to being out of town on military duty.

Commissioner Vande Linde stated he had a concern that Mr. Nordlund had a proxy given to the person staying in his home. He noted this was similar to the Creekside Park giving a proxy to the park manager. He understood what Chairman Wessling was saying, but he did not see how they could treat this any differently.

Chairman Wessling stated he could not vote in favor of assessing a veteran that had someone he trusted living in his home while he was gone on active duty when that person apparently should not have been trusted.

Commissioner Vande Linde stated he might think about this differently if Mr. Nordlund would have appeared at the meeting tonight to discuss this but, apparently, Mr. Nordlund did not think this was important enough to show up for this hearing.

Chairman Wessling opened the public hearing at 8:58 p.m.

As no one further wished to speak, Chairman Wessling closed the public hearing at 8:59 p.m.

MOTION BY CHAIRMAN WESSLING, IN CASE 14-14V, TO RECOMMEND THE CITY COUNCIL RESCIND THE \$2,100 SPECIAL ASSESSMENT IN ITS ENTIRETY.

MOTION FAILED FOR LACK OF A SECOND.

Commissioner Vande Linde stated he could agree to a recommendation of one half of the proposed assessment.

Commissioner Spano Madden indicated she had issues with the amount of this assessment.

Commissioner Thorup wondered how long Mr. Nordlund was of town, and how long his friend had been taking care of his home. She noted this was unknown.

Commissioner Vande Linde stated this was the issue and without Mr. Nordlund appearing at the meeting, they did not have enough information. He stated the reason the other cases this evening were reduced or rescinded was because the residents showed up to plead their cases and Mr. Nordlund had not. He believed Mr. Nordlund may be hiding behind his being in the military and using being out of town as an excuse.

Chairman Wessling stated he would be willing to go with a \$300 assessment.

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MOTION BY COMMISSIONER VANDE LINDE, SECONDED BY COMMISSIONER SPANO-MADDEN, IN CASE 14-14V, TO RECOMMEND THE CITY COUNCIL MODIFY STAFF RECOMMENDATION AND LOWER THE SPECIAL ASSESSMENT AMOUNT FROM \$2,100 TO \$300.

THE MOTION PASSED UNANIMOUSLY.

#### **OTHER BUSINESS**

15. 2013 ANNUAL REORT OF THE BOARD OF ADJUSTMENT AND APPEALS

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER VANDE LINDE, TO ACCEPT THE 2013 ANNUAL REPORT OF THE BOARD OF ADJUSTMENT AND APPEALS AS PRESENTED.

THE MOTION PASSED UNANIMOUSLY.

#### **ADJOURNMENT**

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER SPANO-MADDEN, TO ADJOURN THE MEETING AT 9:08 P.M. THE MOTION PASSED UNANIMOUSLY.

Respectfully submitted, Kathy Altman Board of Adjustment and Appeals Secretary



**Board of Adjustment and Appeals - Regular Session** 

1.

**Meeting Date:** 06/05/2014

**Subject:** PC 14-15V, Ryan Healy, Front Yard Setback, 11894 Avocet Cir

**From:** Cheryl Bennett, Housing and Zoning Coordinator

#### **INTRODUCTION**

Property owner Ryan S. Healy is requesting a reduced front yard setback variance to construct an addition to an existing garage. The garage addition is proposed to be set back approximately 27 feet from the front property line. A variance of eight feet from the required 35-foot front yard setback is requested.

#### **BACKGROUND & CONSIDERATIONS**

The property is zoned Low Density Residential (LDR-2), a single-family residential zoning district. The lot is located in Deer Park Second addition, platted in 1998. The lot is a conforming lot and the structure met all requirements of City Code when it was constructed in 1999. The proposed garage expansion is located to the front of the structure and the variance, if approved, will reduce the front yard setback from 35 to 27 feet.

City Code Section 11-603.2(12)(a) requires a front yard setback of 35 feet from the public street right of way for both the principal structure and the attached garage. However, City Code Section 11-603.2(13) allows for a reduced front yard setback stating that the Board "may permit the front yard setback to be reduced to not less than 25 feet on a property on which is constructed a principal structure, if no other arrangement is practical; provided, however, that the Board may permit such variance for either the principal structure or garage, but not both; and provided, further, that if the variance is given for the garage, the Board will require at least three paved on-site parking spaces whenever practical" and states further that parking spaces within the garage are considered on-site parking spaces for purposes of that section. City Code Sections 11-301 through 11-308 establish the administrative procedural requirements of the Land Development Regulations of City Code, including the Standards for Approval for the granting of variances, Section 11-304.9(2). In this case, the Board is not required to make findings under those standards. Rather Section 11-603.2(13) allows the Board to grant a variance providing only the finding that no other arrangement is practical. This provision of City Code was originally enacted to allow garage expansions for the L-shaped ramblers found in Orrin Thompson subdivisions. It also has been applied to garage additions where topography or nonconformities made expansion to the rear or side yards difficult and to the addition of front foyers or vestibules, open porches and a three-season porch on a north facing house.

The existing garage includes an area containing two parking stalls, measuring 20 feet wide by 20 feet deep, plus a third stall measuring 10 feet wide by 18 feet deep, containing a total of 580 square feet. The front wall of the third stall is offset two feet behind the front wall of the remainder of the garage. At the time of the original construction, the City Code required a garage of at least 400 square feet in floor area (with a width of not less than 14 feet and a depth of not less than 18 feet). City Code now requires new single-family construction provide garage space of at least 484 square feet in floor area with a minimum width of 22 feet and a minimum depth of 22 feet.

In the existing garage, the house extends into the garage space through a 19-inch cantilevered projection that affects the depth of all three parking spaces. These projections reduce the effective depth of two stalls to approximately 17'7" and the third parking stall to 15'7". In addition, a coat closet located off the foyer of the house extends 30 inches into the garage floor. According to the petitioner, these projections restrict the garage to such an extent that only one stall can accommodate a standard midsize vehicle.

The proposed garage addition increases the depth of the two 20-foot deep stalls by eight feet and the third stall by 10 feet. If constructed, the front wall of the garage will no longer have the two-foot offset. It will add 260 square feet to the garage area bringing the total floor area to 840 square feet, exceeding the required minimum garage floor area. As proposed, the addition places the east corner of the garage approximately 27.5 feet from the front property line at its closest point. (No as-built survey of the property has been submitted. The survey provided at the time of construction indicates a proposed setback of 35.5 feet. The proposed eight-foot addition to the garage will place the garage not less than 27 feet from the front property line.) Due to the curvature of the street right-of-way and the orientation of the structure, the opposite corner of the garage will be set back approximately 35 feet from the front property line. Three on-site parking spaces will be provided.

In the LDR-2 zoning district, the required side and rear yard setbacks of an attached garage are five feet and 35 feet, respectively. While it is physically possible to add onto the garage to the side, it would result not result in garage space meeting the current minimum depth requirements of City Code. The only arrangement practical for providing additional depth and floor area to the garage is to extend the garage toward the front property line.

The materials submitted with the application indicate that the exterior finishing materials of the addition will blend with the existing materials that include lap siding with a brick veneer band. The garage doors are proposed to be eight feet in height. The petitioner's proposed elevation, showing an increased door height, is not drawn to scale.

#### **ACTION REQUESTED**

In Case 14-15V, staff recommends approval of an eight-foot setback variance from City Code Section 11-603.2(12)(a) to construct the garage addition as proposed upon the finding that no other arrangement is practical and subject to the following condition: The variance is granted for the existing structure only.

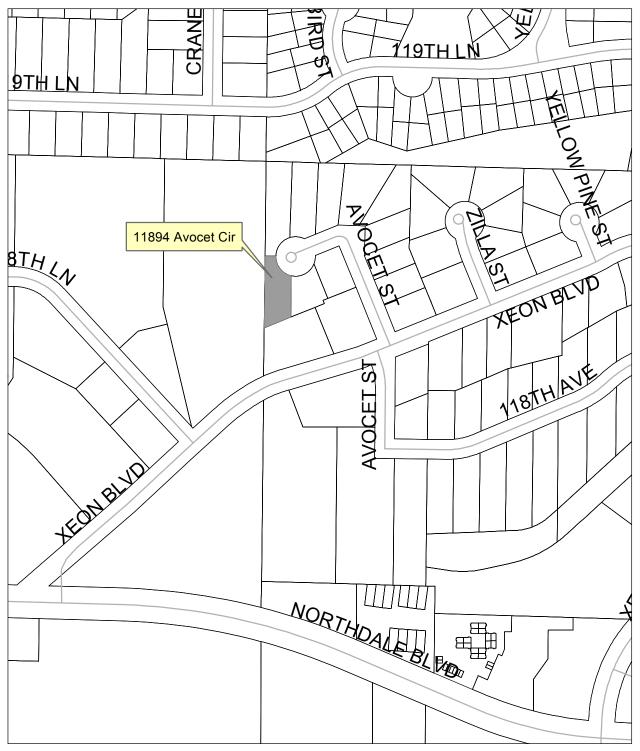
#### **Attachments**

PC 14-15V Attachments

## Location

PIN: 11-31-24-34-0092

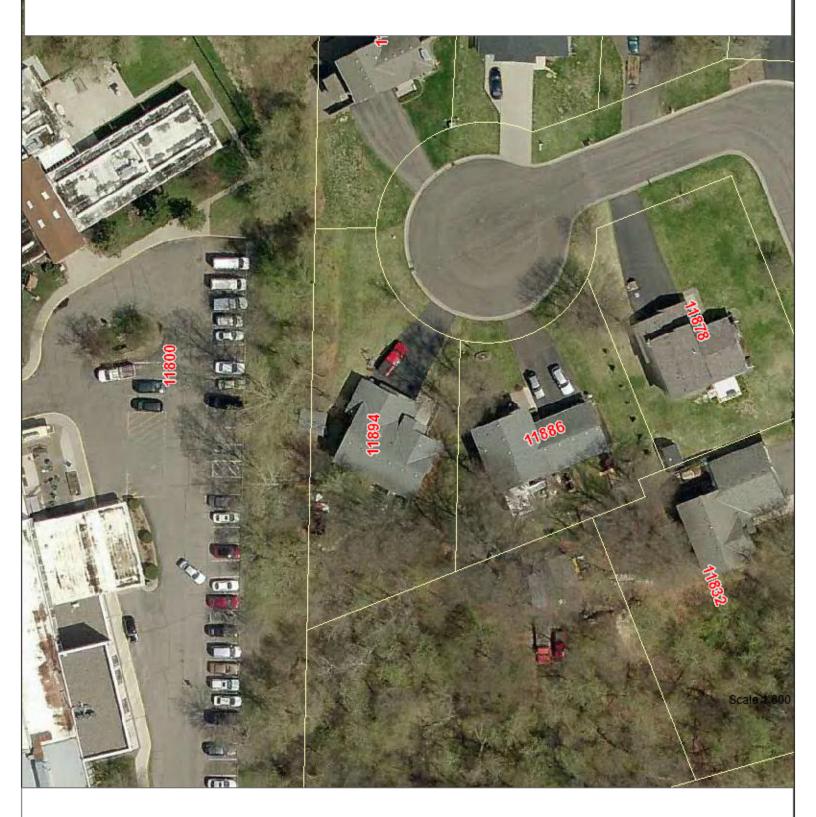
Case: PC 14-15V Front Yard Setback Healy, Ryan S., 11894 Avocet Cir







# 11894 Avocet Cir







Established in 1962

## LOT SURVEYS COMPANY, INC.

LAND SURVEYORS

REGISTERED UNDER THE LAWS OF STATE OF MINNESOTA 7801 73rd Avenus North 612-560-3093 Fax No. 560-3522

Minneapolis, Minnesota 55428

Surveyors Certificate

#### MORNING SUN HOMES

Property located in Section 11, Township 31, Range 24, Anoka County, Minnesota

INVOICE NO. 52548 F.B.NO.\_ 824-27 SCALE: 1'' = 30'

- O Denotes Iron Monument
- Denotes Wood Hub Set for excavation only

x000.0 Denotes Existing Elevation

Denotes Proposed Elevation Denotes Surface Drainage

NOTE: Proposed grades are subject to results of sall tests. Proposed building information must be checked with approved building plan and development or grading plan before excavation and construction.

876.7 Proposed Top of Block 876,2 Proposed Garage Floor

13.5 Proposed Lowest Floor

Type of Building 5 COURSE BASEMENT

33.1B HYD 11894 AVOCET CIRCLE N.W.

Existing 5 te Plan

Lot 10, Block 1, DEER PARK SECOND

Case 14-15V

**Existing Setback** 

Ryan S. Healy, Petitioner 11894 Avocet Circle (Source: building permit)

NED

Charles F, Anderson, Minn. Reg. No.21753

Established in 1962

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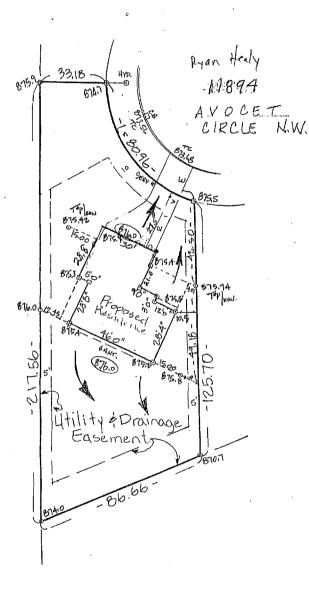
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\_Proposed Top of Block 876,2 Proposed Garage Floor 873,5 Proposed Lowest Floor

Type of Building
5 Course Basement



Lot 10, Block 1, DEER PARK SECOND

Case 14-15V

**Proposed Setback** 

Ryan S. Healy, Petitioner 11894 Avocet Circle (Source: Petitioner)

